

## JASPER DIVISION

**Defendant.**

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**COMPLAINT**  
**JURY TRIAL DEMAND**

## NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act to correct unlawful employment practices on the basis of age and to provide appropriate relief to L. B. Garrison, Beverly McCluskey, Robbie Scogin, and Sharon Tittle. The Commission alleges that, in December 2002, Wal-Mart Stores, Inc., terminated L. B. Garrison, age 57, Beverly McCluskey, age 49, Robbie Scogin, age 57, and Sharon Tittle, age 51, from their employment in Defendant's receiving department because of their age.

## JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) (the "ADEA"), which incorporates by reference Section 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 216(c) and 271.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Northern District of Alabama, Jasper Division.

### PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of the ADEA and is expressly authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

4. At all relevant times, Defendant, Wal-Mart Stores, Inc., (the "Employer"), has continuously been a Delaware corporation doing business in the State of Alabama in the County of Winston and the City of Haleyville, and has continuously had at least 20 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

### CONCILIATION

6. Prior to institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADEA through informal methods of conciliation, conference and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

STATEMENT OF CLAIMS

7. In December 2002, the Defendant Employer engaged in unlawful employment practices at its Haleyville, Alabama, facility, in violation of § 4(a) of the ADEA, 29 U.S.C. § 623(a). The practices include discharging L. B. Garrison, Beverly McCluskey, Robbie Scogin, and Sharon Tittle because of their ages.

8. The effect of the practices complained of in paragraph 7 above has been to deprive L. B. Garrison, Beverly McCluskey, Robbie Scogin and Sharon Tittle of equal employment opportunities and otherwise adversely affect their status as employees, because of their age.

9. The unlawful employment practices complained of in paragraph 7 above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in the conduct alleged in paragraph 7 above and any other employment practice which discriminates on the basis of age against individuals 40 years of age and older.

B. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals 40 years of age and older, and which eradicate the effects of its past and present unlawful employment practices.

C. Grant a judgment requiring Defendant Employer to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to individuals whose wages are being unlawfully withheld as a result of the acts complained of

above, including but not limited to L. B. Garrison, Beverly McCluskey, Robbie Scogin, and Sharon Tittle.

D. Order Defendant Employer to make whole all individuals adversely affected by the unlawful practices described above, by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including but not limited to the reinstatement of L. B. Garrison, Beverly McCluskey, Robbie Scogin, and Sharon Tittle.

E. Grant such further relief as the Court deems necessary and proper in the public interest.

F. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

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